

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

<hr style="width: 10%; margin-left: 0;"/> <p>MALIBU MEDIA, LLC,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JOHN DOE SUBSCRIBER ASSIGNED IP ADDRESS 24.0.85.177 and JAMES COBIANCHI,</p> <p style="text-align: center;">Defendants.</p> <hr style="width: 40%; margin-left: 0;"/>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>Civil Action No. 15-6658 (FLW)(LHG)</p> <p style="text-align: center;"><u>ORDER</u></p>
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THIS MATTER having been opened to the Court by Patrick J. Cerillo, Esq., on behalf of Plaintiff Malibu Media, LLC (“Plaintiff”), on a Motion for default judgment against Defendant James Cobianchi (“Cobianchi”) pursuant to Federal Rule of Civil Procedure 55. The Court finds:

1. Plaintiff filed the Complaint in this matter on September 4, 2015.
2. Plaintiff filed an Amended Complaint on December 14, 2015, which named James Cobianchi as a defendant.
3. Cobianchi was served with a copy of the Amended Complaint on December 23, 2015.
4. On February 26, 2016, Plaintiff moved for entry of default against Cobianchi.
5. On February 28, 2016, the Clerk of the Court entered default against Cobianchi.
6. On March 30, 2016, Plaintiff filed the instant motion for default judgment.
7. To date, Cobianchi has not opposed the motion for default judgment or answered or otherwise responded to the Amended Complaint.
8. Cobianchi is not a minor, incompetent person or in active military service.

9. Under Count I of the Amended Complaint, Cobianchi is hereby found liable to Plaintiff for willfully committing direct copyright infringement.

10. Cobianchi will continue to cause Plaintiff irreparable injury. Specifically, there is an existing threat of continued violations of Plaintiff's exclusive rights to reproduce, distribute, perform and display the twelve (12) copyrighted works listed on Exhibit A attached to Plaintiff's motion for default judgment (the "Works") through Cobianchi's use of the BitTorrent protocol to upload and download the Works between and among peer users without authorization from Plaintiff.

11. Under 17 U.S.C. § 504(c)(1), a copyright owner may elect to recover statutory damages (instead of actual damages and profits), "in a sum of not less than \$750 or more than \$30,000 as the court considers just." Plaintiff seeks the minimum statutory damages for each of the twelve (12) copyrighted works it alleges Cobianchi infringed upon, for a total of \$9,000 in statutory damages. The Court finds this request to be appropriate.

12. Further, under 17 U.S.C. § 504(c)(2), "where the copyright owner sustains the burden of proving, and the court finds, that infringement was committed willfully, the court in its discretion may increase the award of statutory damages to a sum of not more than \$150,000." However, Plaintiff does not request damages under this provision.

13. There will be no injury to Cobianchi caused by entry of a permanent injunction requiring Cobianchi to cease infringing Plaintiff's Works.

14. Entry of a permanent injunction against Defendant is in the public interest because it "preserv[es] the integrity of copyright laws which encourage individual effort and creativity by granting valuable enforceable rights." *DSC Communs. Corp. v. DGI Techs., Inc.*, 898 F. Supp. 1183, 1196 (N.D. Tex. 1995), *aff'd*, 81 F.3d 597 (5th Cir. 1996).

15. In accordance with Federal Rule of Civil Procedure 65(d), this Default Judgment shall be binding upon Cobianchi and all other persons in active concert or participation with Cobianchi who receive actual notice of this Default Judgment.

16. Plaintiff has submitted a Declaration demonstrating that Plaintiff expended a total of \$1,647.00 in attorneys' fees and costs, which amount this Court finds reasonable.

Accordingly, the Court having considered Plaintiff's written submissions in connection with the motion pursuant to Federal Rule of Civil Procedure 78, for the reasons set forth above, and for good cause shown,

IT IS on this 3rd day of May, 2016,

ORDERED that Plaintiff's motion for default judgment [Dkt. No. 12] is **GRANTED**;

IT IS FURTHER ORDERED that Cobianchi shall pay to Plaintiff the sum of \$9,000.00 in statutory damages, as authorized under 17 U.S.C. § 504(c)(1), and \$1,647.00 for attorneys' fees and costs, as authorized under 17 U.S.C. § 505, for a total of \$10,647.00, execution shall issue forthwith;

IT IS FURTHER ORDERED that Cobianchi shall pay to Plaintiff post-judgment interest at the current legal rate allowed and accruing under 28 U.S.C. § 1961 as of the date of this Default Judgment until the date of its satisfaction;

IT IS FURTHER ORDERED that Cobianchi be and hereby is enjoined from directly, contributorily, or indirectly infringing Plaintiff's rights under federal or state law in the Works, including, without limitation, by using the internet, BitTorrent or any other online media distribution system to reproduce (*e.g.*, download) or distribute the Works, or to make the Works available for distribution to the public, except pursuant to a lawful license or with the express authority or Plaintiff;

IT IS FURTHER ORDERED that Cobianchi be and is hereby ordered to destroy all copies of Plaintiff's works that Cobianchi has downloaded onto any computer hard drive or server without Plaintiff's authorization, and shall destroy all copies of the Works transferred onto any physical medium or device in Cobianchi's possession, custody, or control; and

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over this action for six months or until the judgment is satisfied to entertain such further proceedings supplementary and to enter such further orders as may be necessary or appropriate to implement and enforce the provisions of this Order.

/s/ Freda L. Wolfson
The Honorable Freda L. Wolfson
United States District Judge